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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/766,618	01/27/2004	Yoshihide Senzaki	A-70028-1/MSS/TJH (463035)	3758
32940	7590	05/04/2005	EXAMINER	
DORSEY & WHITNEY LLP INTELLECTUAL PROPERTY DEPARTMENT 4 EMBARCADERO CENTER SUITE 3400 SAN FRANCISCO, CA 94111			NGUYEN, HA T	
			ART UNIT	PAPER NUMBER
			2812	
DATE MAILED: 05/04/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

SM

Office Action Summary

Application No.

10/766,618

Applicant(s)

SENZAKI, YOSHIHIDE

Examiner

Ha T. Nguyen

Art Unit

2812

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 030104.

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. Claim 12 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 12 recites Zr-Si-O and Hf-Si-O in line 2. This limitation is conflicting with the requirements of claim 10, upon which it depends, because in Zr-Si-O and Hf-Si-O y is equal to 1 while claim 10 requires y to be in the range of 2 to 5.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-2 are rejected under 35 U.S.C. 102(e) as being anticipated by Callegari et al. (USPN 6664186, hereinafter "Callegari").

Referring to Figs. 12A-12H and related text, Callegari discloses a method of forming a multilayer dielectric film on a substrate, comprising the steps of: forming a metal silicate layer on the surface of the substrate; and forming a metal oxide layer atop the metal silicate layer; forming another metal silicate layer atop the metal oxide layer (see Example 5).

Claim Rejections - 35 USC § 103

4. Claims 3-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Callegari, as applied above, in view of Steigerwald et al. (USPN 6479404, hereinafter "Steigerwald").

Callegari discloses substantially the limitations of claims 3-15, as shown above. It also discloses [Re claim 7] wherein said metal oxide has the formula of M_xO_y , where M is a metal

Art Unit: 2812

selected from the group consisting of Zr, Hf, Ti, V, Nb, Ta, Cr, Mo, W, Mn, Zn, Al, Ga, In, Ge, Sr, Pb, Sb, Bi, Sc, Y, La, Be, Mg, Ca, Sr, Ba, n, Lanthanides (Ce, Pr, Nd, Sm, Eu, Gd, Tb, Dy, Ho, Er, Tm, Yb, Lu), and mixtures thereof, x is a number in the range of 1 to 3, and y is a number in the range of 2 to 5; [Re claim 10] wherein said metal silicate has the formula of M_xSiO_y , where M is a metal selected from the group consisting of Zr, Hf, Ti, V, Nb, Ta, Cr, Mo, W, Mn, Zn, Al, Ga, In, Ge, Sr, Pb, Sb, Bi, Sc, Y, La, Be, Mg, Ca, Sr, Ba, n, Lanthanides (Ce, Pr, Nd, Sm, Eu, Gd, Tb, Dy, Ho, Er, Tm, Yb, Lu), and mixtures thereof, x is a number in the range of 1 to 3, and y is a number in the range of 2 to 5; [Re claim 8] wherein said metal oxide includes more than one metal element; [Re claim 11] wherein said metal silicate includes more than one metal element; [Re claim 9] wherein said metal oxide is selected from the group consisting of ZrO_2 and HfO_2 wherein said metal oxide layer has a dielectric constant k and Callegari also implied that said metal silicate layer has a dielectric constant lower than the dielectric constant of said metal oxide layer because, layer 56 of metal oxide has high dielectric constant while the other two may not (see Example 5).

But it fails to disclose expressly wherein said forming steps are carried out by any one of, or combination of, chemical vapor deposition (CVD), physical vapor deposition (PVD), atomic layer deposition (ALD), aerosol pyrolysis, spray coating or spin-on-coating; said forming steps are carried out by chemical vapor deposition (CVD) and using an oxygen source selected from the group consisting of O_2 , O_3 , NO, N_2O , H_2O , OH-, alcohol, alkoxides, and H_2O_2 ; and wherein said metal oxide layer has a dielectric constant in a range of 15 to 200 and said metal silicate layer has a dielectric constant in a range of 5 to 100.

However, the missing limitation are well known in the art because Steigerwald discloses these features (See par. bridging cols. 5-6, and col. 5, lines 38-55). Note that in the case where the claimed ranges "overlap or lie inside ranges disclosed by the prior art" a *prima facie* case of obviousness exists (See MPEP 2144.05).

A person of ordinary skill is motivated to modify Callegari with Steigerwald to obtain gate dielectric having high dielectric constant.

[Re claim 12] Callegari fails to disclose expressly wherein said metal silicate is selected from the group consisting of Zr-Si-O and Hf-Si-O. However, it discloses the use of Zr and Hf silicates which include Zr-Si-O and Hf-Si-O (see Example 5); and

Art Unit: 2812

[Re claim 13] wherein said metal silicate layer has a thickness smaller than a thickness of said metal oxide (see Figs. 12F-12H).

[Re claims 14-15] Callegari fails to disclose wherein said metal oxide layer has a thickness in a range of about 30 to 80A or wherein said second metal silicate layer has a thickness of one to two atomic layers. However, it would have been obvious to an ordinary artisan to use the appropriate thickness for the layers to meet the requirements of a specification concerning leakage current, quality and cost.

Therefore, it would have been obvious to combine Callegari with Steigerwald to obtain the invention as specified in claims 3-15.

Conclusion

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ha T. Nguyen whose telephone number is (571) 272-1678. The examiner can normally be reached on Monday-Friday from 8:30AM to 6:00PM, except the first Friday of each bi-week. The telephone number for Wednesday is (703) 560-0528. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael S. Lebentritt, can be reached on (571) 272-1873. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Ha Nguyen

Primary Examiner

4- 29- 05